



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/269,037	06/07/1999	JOACHIM WIETZKE	10191/994	9313

26646 7590 04/07/2004

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

MCCHESNEY, ELIZABETH A

ART UNIT	PAPER NUMBER
----------	--------------

2644

DATE MAILED: 04/07/2004

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/269,037

Applicant(s)

WIETZKE ET AL.

Examiner

Elizabeth A McChesney

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 13-21 and 23-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 11, 13-21 and 23-34 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Interview Summary

Application No.

09/269,037

Applicant(s)

WIETZKE ET AL.

Examiner

Elizabeth A McChesney

Art Unit

2644

All participants (applicant, applicant's representative, PTO personnel):

(1) Elizabeth A McChesney.

(3) _____.

(2) Michelle Carniaux.

(4) _____.

Date of Interview: 26 March 2004.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: _____.

Claim(s) discussed: None.

Identification of prior art discussed: None.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The rejection sent 2/17/04 was noted as a Final and a Non-Final on separate papers. It was confusing as to whether the previous Final was withdrawn or maintained. Therefore to clarify the action is indeed a Non-Final, a new Non-Final office action is being mailed.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirement

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Art Unit: 2644

DETAILED ACTION

1. This action is in response to Applicant's response filed 11/24/03, and replaces the office action of 2/17/04. Applicant's request for reconsideration of the application due to the arguments presented has been considered and the finality of the rejection of the last office action, cited 2/17/04, is withdrawn. Claims 11, 13-21 and 23-34 are now pending in the present application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 11, 13-19, 21, 23-34** are rejected under 35 U.S.C. 102(e) as being anticipated by Divon et al. (US Patent No. 6,301,513 B1).

Regarding **claim 11**, Divon et al. (hereinafter, 'Divon') discloses a vehicle audio system that plays digital audio data and which can be removed from the audio system (col.1-lines 37-40). Divon further discloses the data can be loaded/inputted through a telephone, radio receiver or television and that the data can be text, digitized audio data or compressed digitized speech (col. 1-lines 49-53) and therefore reads on inputting

Art Unit: 2644

acoustic data/messages. Divon further discloses the system provides a vocal information system with the capability of retrieving and playing digital and audio data (col. 1-lines 58-60). Divon further discloses the audio system includes a housing which has a slot for receiving a removable digital unit wherein the unit can be a cartridge in the form of a computer memory card (PCMCIA) which reads on a chip card (col. 2-lines 20-24 and lines 5-9). Divon further discloses a remote control, which is operable for playing selected data stored in response to the user commands (col. 2-lines 65-67 and col. 3-lines 1-6).

Regarding **claims 13-18**, Divon discloses the housing includes a radio receiver and sound player, as well including at least one of a television receiver and telephone receiver. Therefore, it is inherently taught that the sound player provides an acoustic output and/or voice output, which also reads on playing the audio via the electrical device and the television receiver would provide a display (col. 2-lines 58-62). Divon further discloses the data can be read or written on by an external computer, which would also provide a display, and would be the second device used for playback (col. 1-lines 42-47).

Regarding **claim 19**, it is inherently taught that the message length would depend on the memory capacity of the card, wherein memory has a specific amount of storage space.

Regarding **claims 21 and 28**, Divon discloses a vehicle audio system that plays digital audio data via an insertable cartridge, which reads on a chip card and can be removed from the audio system (col. 1-lines 37-40). Divon further discloses the system

Art Unit: 2644

provides a vocal information system with the capability of retrieving and playing digital and audio data (col. 1-lines 58-60) wherein it is inherent that a voice digitization module would be provided as the voice audio is disclosed as being digital data. Divon further discloses the data can be loaded/inputted through a telephone, radio receiver or television and that the data can be text, digitized audio data or compressed digitized speech (col. 1-lines 49-53) and therefore reads on inputting acoustic data/messages. Divon further discloses a television and computer as possibilities for loading data which both include a display. Divon further discloses a remote control, which is operable for playing selected data stored in response to the user commands (col. 2-lines 65-67 and col. 3-lines 1-6).

Regarding **claim 23**, Divon further discloses the data can be loaded/inputted through a telephone, radio receiver or television and that the data can be text, digitized audio data or compressed digitized speech (col. 1-lines 49-53).

Regarding **claims 24-27**, see Examiner's comments regarding claims 13-18 above.

Regarding **claims 29 and 30**, Divon further discloses the data can be loaded/inputted through a telephone, radio receiver or television and that the data can be text, digitized audio data or compressed digitized speech (col. 1-lines 49-53) and therefore reads on inputting acoustic data/messages via multiple input devices.

Regarding **claim 31**, it is interpreted and thus rejected for the same reasons as set forth above in claim 28. Since claim 31 discloses a method, which corresponds to,

Art Unit: 2644

the apparatus of claim 28; the method is obvious in that is simply provides functionality for the structure of claim 28.

Regarding **claim 32**, it is interpreted and thus rejected for the same reasons as set forth above in claim 29. Since claim 32 discloses a method, which corresponds to, the apparatus of claim 29; the method is obvious in that is simply provides functionality for the structure of claim 29.

Regarding **claim 33**, it is interpreted and thus rejected for the same reasons as set forth above in claim 30. Since claim 33 discloses a method, which corresponds to, the apparatus of claim 30; the method is obvious in that is simply provides functionality for the structure of claim 30.

Regarding **claim 34**, Divon discloses everything claimed as applied above (see claim 21). Divon further discloses a vehicle audio system that plays digital audio data via an insertable cartridge, which reads on a chip card and can be removed from the audio system (col.1-lines 37-40).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Divon et al. (US Patent No. 6,301,513 B1).

Art Unit: 2644

Regarding **claim 20**, Divon discloses the system is operable with a computer having storage means wherein it would have been obvious to one of ordinary skill in the art to display the free memory space of the storage in the computer including modules inserted into the computer. It is well known in the art that memory of all kind can be displayed on computers for storage both within the computer and storage that is removable within the computer.

Response to Arguments

6. Applicant's arguments with respect to claims 11, 13-21 and 23-34 have been considered but are moot in view of the new ground(s) of rejection. The Examiner maintains that chip cards are well known in the art for removable memory in a variety of devices including computers, handheld devices and automobiles. Divon discloses a vehicle audio system, which includes a removable memory card, which text, speech or audio. Divon further discloses that the digital audio can be rewritten as often as desired and can also be read and written by an external processor such as a computer, which provides a display. It is also obvious to one of ordinary skill in the art that vehicle audio systems include displays and range in complexity and style. Therefore, as the above rejection explains chip cards are a well known in the art for storing data and can be rewritten with text, speech and audio data which can be inputted through various devices, such as television, a radio receiver and telephone (which includes a transducer/microphone). The chip cards are designed to be removable and are used in locations such as vehicles or computers.

Art Unit: 2644

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. McChesney whose telephone number is (703) 308-4563. The examiner can normally be reached Monday – Friday, 8:00 am – 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386.

Any response to this action should be mailed to:

Art Unit: 2644

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

EAM *EAM*
March 26, 2004

Julian
SPB, Art Unit 2644